

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

KRYSTA VAN WOERT,

Plaintiff,

vs.

WASHINGTON SERVICE CORPS, a program  
of WASHINGTON STATE EMPLOYMENT  
SECURITY DEPARTMENT, and UNITED  
WAY OF KING COUNTY,

Defendants.

**NO.**

**COMPLAINT FOR  
DECLARATORY AND  
INJUNCTIVE RELIEF  
AND DAMAGES**

**JURY DEMAND**

COMES NOW, Plaintiff, Krysta Van Woert, by and through her attorneys Washington Civil & Disability Advocate for her Complaint for Declaratory and Injunctive Relief and Damages to state and allege as follows:

**I. INTRODUCTION**

1. Defendants all play a part in managing and operating the major federal government program commonly known as “AmeriCorps” that provides “a national network of hundreds of programs across the nation.”<sup>1</sup> In addition to education awards, AmeriCorps positions are renown for valuable job trainings and experiences that launch AmeriCorps

<sup>1</sup> <https://www.nationalservice.gov/programs/ameriCorps/ameriCorps-faqs>

1 participants on positive trajectories towards careers serving their communities.<sup>2</sup>

2           2.       Plaintiff Krysta Van Woert is an AmeriCorps participant posted in a one-year  
3 position at a public school and charged with assisting and educating students and families about  
4 food availability and nutrition since October, 2019. Ms. Van Woert is also deaf, and her first  
5 language is American Sign Language (“ASL”) as Defendants have been aware since before her  
6 position started. Despite both the obvious necessity for some form of ASL interpreting  
7 accommodation and the repeated, formal and informal requests for accommodation made by Ms.  
8 Van Woert, there have been less than 12 instances of any kind of interpreter assistance, in person  
9 or using a technology based solution, in the five months since Ms. Van Woert started her  
10 position.

11           3.       The Americans with Disabilities Act (“ADA”), Section 504 of the Rehabilitation  
12 Act and the Washington Law Against Discrimination (“WLAD”) guarantee the right to an equal  
13 opportunity for people with disabilities so that people like Ms. Woert have the ability to achieve  
14 equal performance in their livelihood, and prohibit discrimination against people with disabilities  
15 in the form of a failure to provide equal opportunity and access to programs and services due to a  
16 person’s disability.

17           4.       Under disability civil rights laws, Ms. Van Woert’s rights have been violated not  
18 only as an employee and AmeriCorps volunteer, but also as a qualified individual with a  
19 disability who has been denied the full benefit of Defendants’ programs.

20           5.       With much of Ms. Van Woert’s one-year posting behind her, and with months of  
21 unfruitful, extensive pre-litigation efforts to get a consistent, effective interpreting solution in  
22

23 <sup>2</sup> See “Ameristories” at <https://www.nationalservice.gov/programs/americorps/ameristories>, listing dozens of former AmeriCorps participants and their stories of success following postings in AmeriCorps programs, and touting the great benefits of the program to participants.

1 place, she now has no choice but to bring this lawsuit to remedy the ongoing discrimination and  
2 to salvage whatever she can of her AmeriCorps experience.

## 3 II. PARTIES

4 6. Plaintiff Krysta Van Woert is a resident of Pierce County, Washington and resides  
5 in this district. Ms. Van Woert has been deaf her whole life and her first language is ASL.

6 7. Defendant Washington Employment Security Department (“ESD”) is a  
7 department of the State of Washington that administers the Washington Service Corps (“WSC”)  
8 program, including in this district.

9 8. Defendant United Way of King County (“United Way”) is a Washington  
10 nonprofit corporation based in this judicial district.

## 11 III. JURISDICTION AND VENUE

12 9. This court has jurisdiction pursuant to 28 U.S.C. § 1331, which gives district  
13 courts original jurisdiction over civil actions arising in the Constitution, laws, or treaties of the  
14 United States.

15 10. This court has jurisdiction pursuant to 28 U.S.C. § 1343(a)(4), which gives district  
16 courts jurisdiction over actions to secure civil rights under Acts of Congress.

17 11. This court has jurisdiction pursuant to 28 U.S.C. § 1367, which gives district  
18 courts supplemental jurisdiction over related state law claims.

19 12. Venue is appropriate in this judicial district under 28 U.S.C. § 1391 because the  
20 practices and procedures that gave rise to the Plaintiff’s Complaint for Declaratory and  
21 Injunctive Relief and Damages occur in this district and the Defendants reside in this district.

## 22 IV. FACTUAL ALLEGATIONS

23 13. Plaintiff Krysta Van Woert is an AmeriCorps “volunteer” who began her position

1 at a public high school in October of 2019 following successful completion of the AmeriCorps  
2 application process.

3 14. Ms. Van Woert's position is in the "Fuel Your Future Food Access" program  
4 operated by United Way and involves typical 8-hour weekday shifts at the high school where she  
5 assists with the school nutrition programs and is responsible for increasing nutrition education  
6 within the student body and providing educational presentations.

7 15. Since the beginning of her position in October, Ms. Van Woert has requested  
8 some form of ASL communication accommodation at least weekly, and often daily.

9 16. Ms. Van Woert raised the issue with both Defendants within the first week or  
10 weeks of her position, if not prior to the start of her position.

11 17. An interpreter was provided during the initial few days of training, but after that  
12 no accommodation were initially provided.

13 18. Ms. Van Woert can accomplish some of her job without the need for extensive  
14 communications with others, but when the conversation is more complicated or when more than  
15 one person is involved (for instance, at staff meetings), a more comprehensive communications  
16 solution like an ASL interpreter is required.

17 19. Ms. Van Woert has attempted to follow along and communicate via writings, and  
18 several of her coworkers have been helpful in trying to explain things to her during meetings via  
19 written notes and have gone far beyond their responsibilities in an effort to help Ms. Van Woert.

20 20. However, Ms. Van Woert's coworkers have communicated to her that they too  
21 are frustrated with Ms. Van Woert's lack of interpreter accommodations and are frustrated with  
22 Ms. Van Woert's situation and the extra burden inappropriately placed on them as a result.

23 21. Ms. Van Woert has been incredibly patient and persistent in attempting to open an

1 interactive process to create a productive workplace for herself.

2       22. After weeks of little or no accommodations, Ms. Van Woert contacted  
3 Washington Civil & Disability Advocate, who submitted a letter on her behalf to her supervisors.  
4 After a December 11, 2019 meeting with Ms. Van Woert's supervisors, Ms. Van Woert believed  
5 the plan was to guarantee a full week of interpreter services so Ms. Van Woert could identify  
6 where it would be most needed and useful, and then to schedule part time interpreter services  
7 thereafter when it would be most useful.

8       23. The following month, Ms. Van Woert was eventually provided with the one full  
9 work-week of interpreter services and felt she was getting back up to speed and ready to continue  
10 her work, but has had limited or no accommodations since then and Defendants have been  
11 nonresponsive to Ms. Van Woert's continued requests.

12       24. Ms. Van Woert has since been essentially left in the dark, and Ms. Van Woert's  
13 attorney has subsequently attempted to contact her supervisor several times including via both  
14 email and phone, but has not received a response as of the filing of this Complaint.

15       25. Thus, as of the filing of this Complaint, there have been only 12 days where any  
16 interpreter or any ASL communication accommodation has been provided out of nearly five  
17 months (with the first five of those days being program training days and the other days only  
18 occurring after threat of a lawsuit by Ms. Van Woert) and Defendants have not responded to  
19 additional requests for accommodation and have provided no formal position or response to  
20 accommodation requests.

21       26. Despite her frustration, Ms. Van Woert continues to try to be present at her  
22 position and accomplish as much as she can, but Ms. Van Woert has suffered real damages, in an  
23 amount to be determined at trial, both as a result of Defendants' failure to provide reasonable

1 accommodations and engage in an interactive accommodations process and as a result of  
2 Defendants' failure to make the benefits of the AmeriCorps and WSC programs available to Ms.  
3 Van Woert.

4 **V. FIRST CAUSE OF ACTION**  
5 **Title I of the Americans with Disabilities Act**  
6 **42 U.S.C. § 12111**

7 27. Plaintiff incorporates by reference all allegations in the paragraphs above.

8 28. The ADA and relevant implementing regulations make it unlawful to  
9 "discriminate against a qualified individual on the basis of disability." 42 U.S.C. § 12112(a).  
10 This includes, among other things, "not making reasonable accommodations to the known  
11 physical or mental limitations of an otherwise qualified individual with a disability...". 42  
12 U.S.C. § 12112(b)(5).

13 29. Ms. Van Woert is limited in the major life activity of hearing and her first  
14 language is ASL. She is an individual with a disability under Title III of the ADA.

15 30. Ms. Van Woert is a "qualified individual" within the meaning of 42 U.S.C. §  
16 12111(8) that can perform the essential functions of her position with or without reasonable  
17 accommodation, as demonstrated by her successful application through AmeriCorps and WSC.

18 31. Reasonable accommodations include solutions such as job restructuring, part-time  
19 or modified work schedules, reassignment to a vacant position, acquisition or modification of  
20 equipment or devices, and the provision of qualified readers or interpreters. 42 U.S.C. §  
21 12111(9).

22 32. Since the start of her position, Ms. Van Woert has consistently and repeatedly  
23 requested interpreter services or any other reasonable accommodations.

33. From the start of her position in October, nearly five months ago, through the date

of filing of this Complaint, Ms. Van Woert has been provided with only 12 days of interpreter services and has been provided with no other reasonable accommodations.

34. Defendants' discriminatory conduct as alleged in this Complaint has harmed Ms. Van Woert, and the harm will continue without declaratory and injunctive relief.

35. Defendants' discriminatory conduct as alleged in this Complaint entitles Ms. Van Woert to declaratory and injunctive relief as well as damages. 42 U.S.C. § 12117.

36. Defendants' discriminatory conduct as alleged in this Complaint entitles Ms. Van Woert to recover reasonable attorneys' fees and costs incurred in bringing this action. 42 U.S.C. § 12117.

**VI. SECOND CAUSE OF ACTION**  
**Failure to Provide Reasonable Accommodation in Violation of the Washington Law**  
**Against Discrimination**  
**(R.C.W. §§ 49.60.010 et seq.)**

37. Plaintiffs incorporate by reference the allegations in the paragraphs above.

38. The WLAD and implementing regulations provide even greater rights and protections for people with disabilities than the ADA. *Taylor v. Burlington N. R.R. Holdings, Inc.*, 193 Wash. 2d 611, 621–22, 444 P.3d 606, 611 (2019) ("the legislature has expressly rejected the idea that the ADA should be used to constrain the protections offered under the WLAD").

39. Ms. Van Woert is an individual with a disability within the meaning of the WLAD. R.C.W. § 49.60.040(7)(a).

40. Section 49.60.030(1) of the Revised Code of Washington provides in pertinent part: "The right to be free from discrimination because of . . . the presence of any sensory, mental, or physical disability . . . is recognized as and declared to be a civil right. This right shall include, but not be limited to: (a) The right to obtain and hold employment without

1 discrimination.”

2 41. Discrimination under the WLAD includes a failure to make reasonable  
3 accommodations so that people with disabilities have an equal opportunity to properly perform  
4 their job. W.A.C. § 162-22-025.

5 42. Defendants’ refusal to provide any consistent accommodations so Ms. Van Woert  
6 may effectively perform her job is a violation of the WLAD and is discrimination based on  
7 disability.

8 43. As a direct and proximate result of Defendants’ discriminatory conduct as alleged  
9 in this Complaint, Ms. Van Woert has suffered and continues to suffer difficulty, hardship,  
10 isolation, and segregation due to Defendants’ failure to make reasonable accommodations.

11 44. Pursuant to RCW § 49.60.030(2), Ms. Van Woert is entitled to declaratory and  
12 injunctive relief and damages, and to recover from Defendants her reasonable attorneys’ fees and  
13 costs incurred in bringing this action.

14 **VII. THIRD CAUSE OF ACTION**  
15 **Violation of Section 504 of the Rehabilitation Act**  
**(29 U.S.C. § 794 et seq.)**

16 45. Plaintiffs incorporate by reference the allegations in the paragraphs above.

17 46. Under 29 U.S.C. § 794(a), no qualified individual with a disability may be  
18 excluded from participation in, be denied the benefits of, or be subjected to discrimination under  
19 any program or activity receiving Federal financial assistance.

20 47. AmeriCorps, Washington Service Corps, and United Way of King County are  
21 programs or activities receiving Federal financial assistance under 29 U.S.C. § 794(b).

22 48. Ms. Van Woert is a deaf and thus a qualified individual with a disability within  
23 the meaning of 29 U.S.C. §§ 794 and 705(20).



1           49. Defendants have provided Ms. Van Woert with a lesser opportunity to participate  
2 in the AmeriCorps program on the basis of her disability.

3           50. As a direct and proximate result of Defendants' discriminatory conduct as alleged  
4 in this Complaint, Ms. Van Woert has suffered and continues to suffer difficulty, hardship,  
5 isolation, segregation, and a lesser and unequal benefit from a Federally funded program or  
6 activity.

7           51. Pursuant to 29 U.S.C. § 794a, Ms. Van Woert is entitled to declaratory and  
8 injunctive relief and damages, and to recover from Defendants her reasonable attorneys' fees and  
9 costs incurred in bringing this action.

10                               **VIII. FOURTH CAUSE OF ACTION**  
11                               **Title II of the Americans with Disabilities Act**  
                                      **(29 U.S.C. § 12131 et seq.)**

12           52. Plaintiffs incorporate by reference the allegations in the paragraphs above.

13           53. Under 42 U.S.C. § 12132 "no qualified individual with a disability shall, by  
14 reason of such disability, be excluded from participation in or be denied the benefits of the  
15 services, programs, or activities of a public entity, or be subjected to discrimination by any such  
16 entity."

17           54. Ms. Van Woert is a qualified individual with a disability within the meaning of 29  
18 U.S.C. 12131(2) because she meets the essential eligibility requirements for participation in the  
19 AmeriCorps and Washington Service Corps programs.

20           55. The Washington Employment Security Department is a part of the State of  
21 Washington and is a public entity within the meaning of 29 U.S.C. § 12131(1).

22           56. Ms. Van Woert has been denied the benefits of and excluded from meaningful  
23 participation in her AmeriCorps and WSC position solely as a result of her disability.

57. Defendants' nearly five months of little or no effort to correct Ms. Van Woert's lack of access to Defendants' programs, despite repeated requests, demonstrates deliberate indifference and thus damages under Title II of the ADA are proper.

58. Pursuant to 29 U.S.C. § 12133, Ms. Van Woert is entitled to declaratory and injunctive relief and damages, and to recover from Defendants her reasonable attorneys' fees and costs incurred in bringing this action.

## IX. PRAYER FOR RELIEF

WHEREFORE, Ms. Van Woert respectfully request that this Court:

1. Assume jurisdiction over this action;

2. Find and declare Defendants Washington State Employment Security Department and United Way of King County to be in violation of the Titles I and II of the Americans with Disabilities Act, 42 U.S.C. §§ 12101 et seq, Section 504 of the Rehabilitation Act of 1973, and the Washington Law Against Discrimination, Wash. Rev. Code §§ 49.60.010 et seq., and that Defendants acted with deliberate indifference to Ms. Van Woert's constitutionally protected rights;

3. Issue a permanent injunction ordering Defendants to immediately implement the necessary accommodations, changes, and policies to reasonably accommodate Ms. Van Woert's disability for the remainder of the term of her position;

4. Issue a permanent injunction ordering Defendants to immediately implement the necessary accommodations, changes, and policies to ensure that qualified individuals with hearing disabilities are not excluded from or denied the benefits of the Washington Service Corps' programs or activities;

1           5.       Award the Ms. Van Woert reasonable attorneys' fees and costs as authorized by  
2 42 U.S.C. § 12205 and R.C.W. § 49.60.030;

3           6.       Award punitive, actual, compensatory, and/or statutory damages to Ms. Van  
4 Woert for violations of her civil rights as allowed under state and federal law;

5           7.       Award such additional or alternative relief as may be just, proper and equitable.

6 DATED THIS 14th day of February, 2020.

7  
8 WASHINGTON CIVIL & DISABILITY ADVOCATE  
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